SOUTH DAKOTA BOARD OF NURSING

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IN THE MATTER OF THE LICENSURE PROCEEDINGS	:	
	:	**VOLUNTARY SURRENDER CONSENT ORDER**
RE: JAYNE MARSHALL, R.N.	:	
License No. R-025329,	:	
Licensee.		

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WHEREAS, Jayne Marshall, R.N. ("Licensee"), is licensed to practice as a registered nurse in the State of South Dakota and holds License number R-025329; and

WHEREAS, said Licensee, on or about May, 2006, while employed at the Rapid City Regional Hospital in Rapid City, South Dakota, admittedly began diverting Morphine and Percocet from her employer for personal use. On October 26, 2006, a drug screen at her place of employment was positive for Morphine and other narcotics. Thereafter, Licensee entered into treatment with Keystone Treatment Center, being discharged on or about December 3, 2006.

On December 6, 2006, the Licensee signed a Voluntary Refrain from Practice Statement with the South Dakota Board of Nursing and had started the process of enrolling in the Health Professionals Assistance Program ("HPAP"). On December 27, 2006, Licensee appeared for an Informal Meeting with the Board of Nursing staff, where

she admitted to diverting 8 to 12 mg. of Morphine per shift for her own use. At the end of the Informal Meeting with the Board of Nursing staff, the Licensee stated that she would agree to a settlement of mandated HPAP for a period of 5 years.

The recommended informal settlement terms were presented to the full South Dakota Board of Nursing on February 6, 2007, with said agreement for informal settlement not being accepted by the Board. On February 6, 2007, the South Dakota Board of Nursing found that the Licensee's actions endangered the public health, safety and welfare of those entrusted to her care and summarily suspended the Licensee's license to practice nursing in the state of South Dakota and Noticed her for a hearing before the South Dakota Board of Nursing on April 17, 2007 at 11:00 a.m.

On April 2, 2007, the Licensee made a self report to the South Dakota Board of Nursing staff that she had tested positive for propoxyphene on a random drug screen taken as part of her HPAP participation on March 19, 2007. Licensee had no record of a valid prescription for this drug; and

WHEREAS, Licensee has agreed that she would surrender her South Dakota nursing license; and

WHEREAS, the South Dakota Board of Nursing ("the Board") has a statutory obligation to protect the public health, safety and welfare set forth in SDCL §36-9, including the protection of the public from unsafe nursing practices and practitioners; and

WHEREAS, Licensee agrees that the matters under investigation would be of a

nature that would constitute grounds for the discipline of her license to practice nursing in South Dakota under SDCL § 36-9-49; and

WHEREAS, the Licensee agrees that he enters into this Voluntary Surrender Consent Order voluntarily and without duress or compulsion, in full understanding of the legal consequences of this document and her rights; therefore,

ITS IS HEREBY STIPULATED AND AGREED AS FOLLOWS:

1. That the Board has jurisdiction over the person of the Licensee and the subject matter of this Voluntary Surrender Consent Order.

2. That the Licensee, on or about May, 2006, while employed at the Rapid City Regional Hospital in Rapid City, South Dakota, admittedly began diverting Morphine and Percocet from her employer for personal use. On October 26, 2006, a drug screen at her place of employment was positive for Morphine and other narcotics. Thereafter, Licensee entered into treatment with Keystone Treatment Center, being discharged on or about December 3, 2006.

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On April 2, 2007, the Licensee made a self report to the South Dakota Board of Nursing staff that she had tested positive for propoxyphene on a random drug screen taken as part of her HPAP participation on March 19, 2007. Licensee had no record of a valid prescription for this drug. Licensee now intends to leave the profession of nursing as a registered nurse.

3. That the Licensee has been given an opportunity to discuss this Voluntary Surrender Consent Order with an attorney of Licensee's choice, and is aware of her right to a hearing in this matter, and of her rights under the United States and South Dakota Constitutions, laws, rules and/or regulations. Licensee hereby voluntarily waives all such rights to a hearing, notice, appearance, or any other rights under said Constitutions, laws, rules and/or regulations. Licensee also agrees that the Board's Executive Director or her designee may present this Voluntary Surrender Consent Order to the Board and disclose

to the Board all items of her investigation, including, but not limited to, any communications with Licensee.

4. That the Licensee's license to practice nursing in South Dakota and her privilege to practice nursing pursuant to the Nurse Licensure Compact shall be surrendered and the Board shall suspend said license for an indefinite period from the date of this Order. Licensee may apply to have her license reinstated for good cause shown.

5. That nothing in this Voluntary Surrender Consent Order should imply that the Licensee shall be reinstated. Licensee recognizes that the reinstatement terms, as well as the requirements for reinstatement, are at the sole discretion of the Board.

6. That if the Licensee requests reinstatement, Licensee has the burden of presenting information showing that Licensee's license should be reinstated.

7. That it is further stipulated and agreed that this Voluntary Surrender Consent Order is being entered into voluntarily by the Licensee and without threats or coercion and is entered into after the Licensee has been given ample opportunity to consider these matters and to discuss this Voluntary Surrender Consent Order with an attorney of Licensee's choice and that the Licensee has a full understanding of the legal consequences of this Voluntary Surrender Consent Order and of the Licensee's rights to a formal hearing on these matters, which rights are hereby waived by the signing of this Voluntary Surrender Consent Order.

8. This action is reportable discipline and will be published in the Board's newsletter and posted on it's web site and reported into the HIPDB and NPDB data banks as required by law.

9. That the Board may enter an Order consistent with the terms of this Stipulation.

NOW, THEREFORE, the foregoing Voluntary Surrender Consent Order is entered into and is respectfully submitted to the Board with the request that the Board adopt its terms as an Order of the Board in the above matter.

Dated this 8 day of April, 2007.

Jayne Marshall

Jayne Marshall, R.N., Licensee

The South Dakota Board of Nursing meeting on the 18th day of April, 2007, (approved)(rejected) the attached Voluntary Surrender Consent Order (as written)(with the following modifications):

and issued its Order as follows:

IT IS HEREBY ORDERED that the above Voluntary Surrender Consent Order is adopted shown herein by the South Dakota Board of Nursing this 18th day of April, 2007, by vote of 11-0.

Gloria Damgaard

Gloria Damgaard, Executive Director
South Dakota Board of Nursing